

1 Title 5. EDUCATION

2 Division 1. State Department of Education

3 Chapter 19. Child Care and Development Programs

4 Subchapter 2. General Requirements

5 Article 1. General Provisions

6 *Delete Section 18021:*

7 **~~§ 18021. Payments to Family Child Care Providers.~~**

8 ~~(a) Contractors who operate through family child care homes shall pay each non-employee family~~  
9 ~~child care provider the same rate(s) the provider charges non-subsidized families.~~

10 ~~(b) For non-employee family child care home providers that do not serve non-subsidized children, the~~  
11 ~~contractor shall pay a rate that is within 1.5 standard deviations of the mean market rate for family child~~  
12 ~~care homes as established by the most recent survey of the local resource and referral agency.~~

13 NOTE: Authority cited: Section 8261, Education Code. Reference: Section 8261, Education Code.

14  
15 *Add Subchapter 2.5, Article 1, Sections 18074 to 18076.2 to read:*

16 **Subchapter 2.5. Utilization of the Regional Market Rate**

17 **Article 1. General Provisions**

18 **§ 18074. Applicable Regulations.**

19 The regulations contained in this Subchapter, except for those contained in Section 18075.1, shall  
20 apply to contractors using the regional market rate to develop reimbursement agreements with licensed  
21 and license-exempt providers of child care and development services to eligible families. Section  
22 18075.1 applies to contractors developing reimbursement agreements with licensed providers only.

23 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269,  
24 Education Code.

25 **§ 18074.1. Definition(s).**

26 (a) "Certified need for child care" means the number of days and hours of child care and  
27 development services approved and documented by the contractor as sufficient to meet the family's need  
28 for child care as specified in Education Code section 8263(a)(2).

29 (b) "Maximum payment rate" means the regional market rate ceiling plus any applicable adjustments.

30 (c) "School age" means children enrolled in kindergarten through grade nine.

31 NOTE: Authority cited: Sections 8261, 8263, and 8269, Education Code. Reference: Sections 8263,  
32 8269, and 8461, Education Code.

33 **§ 18074.2. Application of Regional Market Rate Ceilings.**

34 (a) Providers who establish a rate pursuant to Section 18074.3 of this subchapter, and who operate  
35 with a valid license per Title 22 California Code of Regulations, Division 12, or are school districts

1 adhering to the requirements of Title 22 California Code of Regulations, Division 12, shall be reimbursed  
2 pursuant to their established rate for the appropriate category in accordance with Section 18075, but not to  
3 exceed the maximum payment rate.

4 (b) Providers who establish a rate pursuant to Section 18074.3 of this subchapter, and who are exempt  
5 from licensure per California Health and Safety Code sections 1596.792(d), (f), and (g), and Title 22  
6 California Code of Regulations, Sections 101158 and 102358, shall be reimbursed pursuant to their  
7 established rate for the appropriate category in accordance with Section 18075, but not to exceed 90  
8 percent of the maximum payment rate for family child care homes.

9 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269,  
10 Education Code.

11 **§ 18074.3. Establishment of Provider Rate.**

12 Providers of child care and development services to eligible families shall provide documentation to  
13 the contractor of the rate(s) they charge. When a provider has not established a rate, as defined in Section  
14 18075 of this subchapter, that corresponds to the certified need of the family, the contractor shall establish  
15 the appropriate rate as follows:

16 (a) Identify a rate category that corresponds to a provider's established rate.

17 (b) Divide the provider's rate by the regional market rate ceiling for the appropriate rate category.  
18 This will yield a percentage.

19 (c) Apply the resulting percentage to the regional market rate ceiling for the rate category to be used  
20 for reimbursement. This shall be considered to be the provider's established rate for that category.

21 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8265 and 8269,  
22 Education Code.

23 **§ 18075. Reimbursement Rate Categories.**

24 Contractors shall reimburse providers in accordance with the following rate categories, up to the  
25 regional market rate ceiling for each category.

26 (a) Hourly, which shall only be used for the following:

27 (1) When a child's certified need for child care and development services is no more than 15 hours  
28 per week and no more than six hours on any day within the week; or

29 (2) An unscheduled but documented need of six hours or less per occurrence, such as the parent's  
30 need to work overtime, that exceeds the child's certified need for child care and development services; or

31 (3) That portion of the child's certified need for child care and development services that exceeds  
32 52.5 hours per week and is not included in the provider's full-time weekly or full-time monthly rate. This  
33 provision applies only if the family utilizes no more than one provider to meet the child's entire need for  
34 child care and development services.

35 (b) Daily, which shall only be used for the following:

36 (1) When a child's certified need for child care and development services occurs on three days or less

1 each week for more than six hours per day; or

2 (2) An unscheduled but documented need of more than six hours per occurrence, such as the parent's  
3 need to work on a regularly scheduled day off, that exceeds the child's certified need for child care and  
4 development services; or

5 (3) The parent's variable work schedule lacks a pattern of recurring work days and days off on a  
6 weekly or monthly basis and, in the judgment of the contractor, prohibits the child's certified need for  
7 child care and development services from being met by applying any other rate in this section.

8 (c) Part-time weekly, which shall only be used when the child's certified need for child care and  
9 development services is greater than 15 hours per week and no more than 30 hours per week and the need  
10 for child care and development services occurs on at least three days per week.

11 (d) Full-time weekly, which shall only be used when the child's certified need for child care and  
12 development services is greater than 30 hours per week.

13 (e) Part-time monthly, which shall only be used when:

14 (1) The child's certified need for child care and development services is greater than 15 hours but no  
15 more than 30 hours per week and the need for child care and development services occurs in every week  
16 of the month; or

17 (2) The child's certified need for child care and development services averages more than 15 hours  
18 but no more than 30 hours per week when calculated by dividing the total number of hours of services  
19 needed in the month by 4.33, and the need for child care and development services occurs in every week  
20 of the month.

21 (f) Full-time monthly, which shall only be used when:

22 (1) The child's certified need for child care and development services is more than 30 hours per week  
23 and the need for child care and development services occurs in every week of the month; or

24 (2) The child's certified need for child care and development services averages more than 30 hours  
25 per week when calculated by dividing the total number of hours of services needed in the month by 4.33,  
26 and the need for child care and development services occurs in every week of the month.

27 NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8220, 8222, and  
28 8357, Education Code.

29 **§ 18075.1. Rate Adjustment for Evenings and/or Weekends for Licensed Providers.**

30 (a) This section applies only to services reimbursed to licensed providers, and only when the  
31 contractor is reimbursing a provider using a category specified in Section 18075(c), (d), (e), or (f).

32 (b) When the child's certified need for child care and development services occurs between the hours  
33 of 6:00 p.m. and 6:00 a.m. on weekdays, or any time on weekends, the contractor shall multiply the  
34 provider rate as follows:

35 (1) By 1.25 when more than 50 percent of the need for child care and development services occurs  
36 during this period.

(2) By 1.125 when more than 25 percent but no more than 50 percent of the need for child care and development services occurs during this period.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8220, 8222, and 8357, Education Code.

**§ 18075.2. Rate Adjustment for Children with Exceptional Needs.**

(a) When child care and development services are provided to a child with exceptional needs, the contractor shall multiply the provider rate by only one of the following:

(1) By 1.2, when the child has exceptional needs as defined in Education Code section 8208(l).

(2) By 1.5, when the child is severely disabled as defined in Education Code section 8208(x).

(b) Contractors shall apply this rate adjustment only when there is documentation that additional services and/or accommodations for that particular child are being provided, and such services and/or accommodations result in an on-going financial impact on the provider.

NOTE: Authority cited: Sections 8222, 8265, 8265.5, and 8269, Education Code. Reference: Sections 8208(l) and 8208(x), Education Code.

**§ 18076. Limitations on Reimbursement.**

(a) Single Rate Category. Contractors shall only provide reimbursement using a single rate category as defined in Section 18075, unless using more than one category results in a lower amount of reimbursement than would result if using a single category.

(b) Notwithstanding (a), when Sections 18075 (a)(2), 18075(a)(3), or 18075(b)(2) are applicable, contractors may reimburse providers for those categories in addition to the applicable single category.

(c) Contractors may reimburse a child care provider using a rate that exceeds the regional market rate ceilings when there are no more than two child care providers in the region offering services meeting the needs of the subsidized family pursuant to Education Code section 8263, and the provider has established a rate pursuant to Section 18074.3 of this article that exceeds the ceilings.

(d) Contractors shall adopt a policy governing absences that includes reasonable limitations for reimbursement purposes.

NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8266.5, and 8357, Education Code.

**§ 18076.1. Provider Payment.**

(a) A family may choose a child care provider who charges a higher fee than the contractor's maximum payment rate.

(b) In such cases, the family shall be responsible for the difference between the rate charged by the provider and the contractor's maximum payment rate.

(c) The contractor shall pay registration, materials, and/or insurance fees charged by providers, either in a single payment or prorated over a 12-month period, as long as:

1       (1) The same fee is charged to nonsubsidized families, and

2       (2) The fee or prorated portion thereof, plus the rate established for the provider pursuant to this  
3       subchapter, does not exceed the maximum payment rate.

4       NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Sections 8222, 8266.5,  
5       and 8357, Education Code.

6       **§ 18076.2. Reimbursement for Absences.**

7       (a) This section does not apply to reimbursement for services provided pursuant to Sections  
8       18075(a)(2) and (a)(3), and Sections 18075(b)(2) and (b)(3), of this subchapter.

9       (b) Reimbursable hours of child care and development services for the child's regular provider shall  
10       include:

11       (1) Time that a child is absent when the contractual terms used by the provider for services to  
12       nonsubsidized families require payment for such absences.

13       (2) Time that the provider has a paid holiday and can provide documentation that the contractual  
14       terms used by the provider for services to nonsubsidized families require payment for such holidays. The  
15       number of reimbursable paid holidays shall be limited to a maximum of ten days per fiscal year.

16       (c) Reimbursable hours of child care and development services for an eligible alternate provider shall  
17       include:

18       (1) Time that child care and development services are provided when the regular provider has a paid  
19       holiday, and the parent has to obtain an alternate provider to meet the certified need for child care and  
20       development services. Payment to an alternate provider when the regular provider has a paid holiday  
21       shall be limited to ten days per child per fiscal year.

22       (2) Time that child care and development services are provided by an eligible alternate provider when  
23       the child is ill and the parent has to obtain care from an eligible alternate provider. Payment to an  
24       alternate provider when the child is ill shall be limited to a maximum of ten days per fiscal year.

25       (d) The contractor shall not reimburse for child care and development services when:

26       (1) The child is attending school.

27       (2) The child is receiving any other child care and development services except as specified in  
28       Section 18076.2(c)(2).

29       (3) For school age children, when services are provided during the usual hours of operation of a local  
30       public school available to the child, or a private school that the family chooses to attend, unless the child  
31       is receiving services from an alternate provider due to illness as specified in subsection 18076.2(b).

32       NOTE: Authority cited: Sections 8265 and 8269, Education Code. Reference: Section 8208(e), 8263,  
33       8266.5, and 8357, Education Code.

1 Chapter 19.5 CalWORKs and Child Care and Development Programs

2 Subchapter 2. CalWORKs Stage 2 Child Care Program

3 Article 4. Provider Payments and Parent Fees

4 Amend Section 18413 to read:

5 **§ 18413. Provider Payments.**

6 (a) The contractor shall pay each provider no more than the provider charges nonsubsidized families,  
7 ~~and not to exceed the applicable regional market rate ceiling established pursuant to statute, 1.5 standard~~  
8 ~~deviations above the mean cost of care for that region established by the most recent regional market rate~~  
9 ~~survey. For providers that serve only subsidized children, the contractor shall pay a rate that is not to~~  
10 ~~exceed 1.5 standard deviations above the mean market rate established by the most recent regional market~~  
11 ~~rate survey. When there are no more than two child care providers in the region providing the type of~~  
12 ~~care needed by the family, the contractor is not bound by the maximum payment rate for that region.~~

13 (b) The contractor shall calculate the payment for child care on a monthly, weekly, daily, or hourly  
14 basis depending on the family's needs and the contractual terms used by the provider to charge  
15 nonsubsidized families for the same service. The payment basis shall not be calculated for the sole  
16 purpose of financially benefiting the provider.

17 (c) Reimbursable hours of care shall include: work hours, commute hours, participation in county-  
18 approved activities, and other eligible hours as approved by the contractor.

19 (1) Time necessary for the parent to travel between his/her work or work activity and the child care  
20 provider;

21 (2) Time that a child is absent when the contractual terms used by the provider for services to  
22 nonsubsidized families require payment for such absences; and

23 (3) Time that care is provided by another eligible provider when the child is ill or when the usual  
24 provider of care has a paid holiday at the time that the parent must work or attend a work activity.

25 (d) Contractors shall adopt a policy governing absences that include reasonable limitations for  
26 reimbursement purposes.

27 (e) The contractor shall pay registration fees charged by child care providers, as long as these fees are  
28 the same as those charged to nonsubsidized families for the same purpose and the registration fee together  
29 with the provider payment do not exceed the maximum payment rate.

30 NOTE: Authority cited: Sections 8261 and 8269, Education Code. Reference: Sections 8353 and 8357,  
31 Education Code.

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